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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,524	09/26/2001	Richard E. Rowe	IGT1P047/P-529	3760

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER	
SAGER, MARK ALAN	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/965,524	ROWE, RICHARD E.	
	Examiner	Art Unit	
	M. A. Sager	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 11/27/01, 5/6/03, 7/17/03 (2 pages).

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-37 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11/27/01, 5/6/03, 7/17/03 (2 pages).
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Language

1. This is neither a rejection nor an objection of claimed subject matter and is only provided for clarification of record. Claims recite the 'Internet'; while the term is trademarked for various goods and services, it is not presently trademarked for the service of a computer network. However, the terms are relative given both the rate at which technology is evolving, and misuse by media. The Internet is an infrastructure that supports transmission of electronic data. It consists of all servers, routers, communication lines, satellites and other communication devices used to convey the electronic data, including Web sites, E-mail, Usenet and news groups, from one point to another. By using the term, applicant must be careful to delineate whether invention claims the infrastructure of Internet or use of the infrastructure they contain. Furthermore, what is accepted as conventional scope of the Internet today in terms of infrastructure, is quite different from what was accepted a mere eight (8) years ago, and it is unknown what will be accepted as either the Internet of tomorrow. For these reasons, it is strongly urged Applicant consider using more generic terminology of a computer network to claim inventive concepts.

2. The breadth of distributing or uploading a/the subset of the gaming applications includes transmitting a game program or portion/subset thereof including gaming variables such as gaming outcomes. The breadth of gaming sites as disclosed includes a casino, brick and mortar gaming venue or gaming sites (19:20-22, 22:6-10) on the internet or WWW which thus includes any network device or computer connected to internet or WWW. Also, each regulatory region having a regulatory scheme is admitted in instant background (2:17-19, 22-23, 3:7-8) or notoriously well known to an gaming artisan due at least to Gaming Control Board designations.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 1-37 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6645077 to Rowe in view of O'Conner 6178510 and Pease 5759102. Rowe '077 is a central distribution for a gaming venue to gaming terminals (e.g. sites) as stated in instant background (4:5-14) and Rowe claims a repository for distributing software objects such as a subset or portion of a subset gaming applications from a server at a gaming venue within a regulatory region having a regulatory scheme (within a regulatory region having a regulatory scheme is inherent) that stores a plurality of gaming applications to gaming site such as gaming terminals, but lacks claiming a method or system for distributing applications with a plurality of regulatory regions. O'Conner (discussed below incorporated herein) discloses a method, system and apparatus for distributing gaming applications over a plurality of regulatory regions via a WAN such as internet; while, Pease (discussed below incorporated herein) discloses a method, system and apparatus for distributing gaming applications over a WAN to allow devices to be reprogrammed or to accommodate new games by remote distribution based on regulatory scheme. Therefore, it would have been

obvious to an artisan at a time prior to the invention to add distributing from a plurality of servers including regional servers located in a plurality of regulatory regions over WAN including internet to gaming sites as suggested/taught by O'Conner and Pease to Rowe's apparatus to permit remote reprogramming of gaming devices including adding new games so as to reduce distribution expense since electronic distribution is much cheaper than manual distribution.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1-4, 10, 12-13, 17-24, 26-30, 36-37 is rejected under 35 U.S.C. 102(e) as being anticipated by O'Conner, 6178510. As best understood and as broadly claimed, O'Conner discloses a network for performing regulated transactions teaching, as broadly claimed, a computer implemented method or a system or apparatus for distributing gaming applications to a plurality of gaming sites located in a plurality of regulatory regions via a WAN, each regulatory region having a regulatory scheme associated therewith (fig 1), storing a plurality of gaming applications on at least one central server (7:50-61, ref 110, 108, 114), distributing a subset of the gaming applications from the at least one central server to at least one of the gaming sites such as a internet gaming site located in a first one of regulatory regions via WAN, the subset of gaming applications being determined according to the associated regulatory scheme (7:37-62, 9:7-13, 9:60-10:9, 24-67, 11:52-53, 56-60, 12:8-16, 46-49), uploading subset of gaming applications to

at least one regional server including a plurality of regional servers associated with first regulatory region (9:60-10:3, 12:8-16, fig 1), distributing a portion of the subset of gaming applications from the at least one server to the at least one gaming site including the request is received by the central server over a WAN or internet gaming site for the portion of the subset of the gaming applications from the gaming site so as to download resources to a user's network device (11:52-53, fig 1), in response to the request providing access to resources related to the portion of the subset of gaming applications requested (9:60-10:67, 11:52-12:16), determining the subset with reference to regulatory scheme associated with a regulatory region and selecting software objects associated with the gaming application, sic. Regarding claim 20, O'Conner includes presenting a plurality of software objects associated with the first gaming application such as different games available for download to play based on user's access and jurisdiction (10:15-67, 11:57-60, 12:8-16). Also, regarding claim 21-22, O'Conner further includes wherein each of the gaming applications inherently comprises a plurality of software objects such as base game applications, pay tables, display data or bonus game to permit either pay per play or wagering games (12:8-16). Evidence of games including a plurality of software objects such as base game, pay table, display data or bonus game is exemplified in instant background of invention (1:17-3:22) or Pease (5759102, 2:13-17, 30-3:7). Regarding 23-24, O'Conner may transmit the subset in a single download or in a plurality of downloads.

Steps/features above regarding claims 1-4, 10, 12-13, 17-24, 26-27 as taught by O'Conner similarly apply to claims 29, 36-37 due to similar scope claimed and thus discussion above is incorporated herein.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 5-9, 11, 14-16, 31-35 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Conner. O'Conner discloses a method for distributing gaming applications from servers or regional servers and determines which server/regional server distributes the portion of the gaming application, determines which resources a user may access (12:8-16) and identifying central server as an option (11:52-53), but lacks performing load balancing among the plurality of regional servers (clm 5, 32), parsing the request to identify a first one of the regional servers (clm 6, 35), so as to automatically determined (clm 31), identifying each of the plurality of regional servers... to selection of the regional servers by the sender (clm 7, 33-34), identifying file size and download time (clm 8), available related bonus games, game demonstrations, training, announcements, bulletin board, game rating and chat room (clm 11), a plurality of versions of a game (clm 14), each correspond to a specific one of the regulatory schemes (clm

15), each of the versions comprises a unique combination of software objects associated with the plurality of gaming applications (clm 16). Regarding claims 5-6, 31-32, 35, distributed networks reduce latency issues common with centralized networks by distributing network assets closer to user terminals so as to reduce distance between server and terminals. The particularly claimed technique of either load balancing or parsing a request are common network procedures used to automatically determine which network asset or server is best suited to communicate where all other aspects being equal (as evidence, see Pease 5759102, 6:34-47). Therefore, it would have been obvious to an artisan at a time prior to the invention to add load balancing among the plurality of regional servers, parsing the request to identify a first one of the regional servers, and automatically to O'Conner's apparatus so as to reduce latency or to determine which server or network asset is best suited to communicate where all other aspects are equal. Regarding claim 7-9, 33-34, permitting user selection of server is well known in gaming and network communication such as demonstrated by distributed networks of ISPs like AOL, CompuServe, etc., whereby a user is presented a list of regional servers closest to the region/location of user from which to select one of the servers to communicate so as to reduce latency by selecting the server closest or having least load based in part on size of file and time to download. Therefore, it would have been obvious to an artisan at a time prior to the invention to add identifying each of the plurality of regional servers... selection of one of the regional servers by the sender, identifying file size and download time to O'Conner to allow user selection of server closest to location so to reduce latency of communicating with distributed asset. Regarding claim 11, bonus games whether by progressive jackpot or other bonus schemes are well known (as evidence see Pease 6135887, or Acres 5759102 or 5655961). Bonus games generally have at

least one of a higher probability of winning or higher award amounts and thus attract player interest to play for the opportunity to win a bonus or jackpot award. Thus, it would have been obvious to provide access to bonus games as known to O'Conner to allow user an opportunity to win a bonus or jackpot award based in part on regional regulation (12:8-16). Regarding claim 14-16, O'Conner discloses permitting access to download gaming applications including pay for play and wagering applications (12:8-16). Also, by OFFICIAL NOTICE, it was well known in gaming to provide many versions of a game so as to increase the game's utility while complying with regional regulatory schemes such as a banking game version and a pari-mutuel version or similarly a Class I, II and III versions of same game under Gaming Control Board determinations so as to permit play of one version in a jurisdiction where the second or third version may not otherwise be permitted due to regulatory classification. Therefore, it would have been obvious to an artisan at a time prior to the invention to add a plurality of versions of a game, each correspond to a specific one of the regulatory schemes, each of the versions comprises a unique combination of software objects associated with the plurality of gaming applications as known to O'Conner to increase utility and access to a game.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Conner in view of Pease 5759102. O'Conner discloses distributing gaming applications including determining the subset with reference to regulatory scheme associated with a regulatory region and selecting software objects associated with the gaming application, sic, but lacks physical gaming venue (clm 25). Pease discloses downloading updates or new software of gaming applications to gaming terminals in a network of a physical gaming venue. Therefore, it would have been obvious to an artisan at a time prior to the invention to add physical gaming venue as

suggested by Pease to O'Conner's apparatus to allow upgrade or new software of gaming applications to be distributed so as to reduce personnel expense.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. A. Sager
Primary Examiner
Art Unit 3714

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